



State Board of Equalization

News Release

Vice Chair Michelle Steel

3rd District – Rolling Hills Estates

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Michelle Steel Announces Out-of-State Retailers' Tax Collection Mandate Delayed; Consumers Still Owe Use Tax

New Law Gives Time for Out-of-State Retailers to Seek Federal Legislation

Michelle Steel, Vice Chair of the California State Board of Equalization (BOE), announced today that the BOE will cease implementation of ABx1 28, the bill signed by the Governor in June as part of the budget requiring tax collection by certain out-of-state retailers. The Governor has signed an alternative measure, AB 155, giving out-of-state retailers time to push for passage of federal legislation, thereby delaying requirements of the previously signed bill. The main provisions of ABx1 28 are also included in AB 155 and will be revived at a later date.

“This alternative language is not enough,” said Steel in response to the Governor’s signing of AB 155. “It simply suspends this illegal tax collection scheme until next year.”

“Thousands of affiliate jobs were killed by ABx1 28 and are unlikely to return to California because of the uncertainty that this legislation creates. Congress is unlikely to pass a federal sales tax requirement in 2012, and California will once again be faced with the consequences of this unconstitutional law in 12 months.”

If a federal law governing the imposition of use tax collection obligations by the states is not enacted on or before July 31, 2012, then the provisions of ABx1 28 that expanded the California use tax collection obligations of out-of-state retailers will again take effect September 15, 2012. If a federal approach is enacted by July 31, 2012, and California does not elect to join the federal solution by enacting conforming state legislation by September 14, 2012, then those provisions of ABx1 28 will revive effective January 1, 2013.

Upon revival, the one change will be that the safe harbor threshold for small retailers will be \$1,000,000 instead of \$500,000. This provision generally requires sales into California by out-of-state retailers to exceed \$1 million per year before collection of tax is necessary.

When out-of-state retailers do not collect California tax, California consumers remain responsible for payment of use tax on their purchases. Use tax applies generally to the same types of items that are subject to sales tax. Tax applies to the sale or use of tangible personal property in California, those items that can be seen, weighed, measured, felt, or touched, or which are in any other manner perceptible to the senses. Use tax is the equivalent of sales tax, and has been the law since 1935.

If you are not required to have a permit or a use tax account, the easiest way to report and pay the use tax is on your [California state income tax return](#). You may also register with the BOE as a use tax payer and make the payment directly to the BOE.

As directed by the Board at their September Board meeting, staff will continue with the previously approved interested parties process to discuss potential amendments related to the anticipated revival of the provisions of

ABx1 28 on either September 15, 2012, or January 1, 2013. These meetings will be held October 31 and December 20 in Sacramento and November 2 and December 22 in Culver City.

Staff began the process of implementing ABx1 28 by sending questionnaires to some out-of-state retailers to determine if they met the requirements to collect California tax on sales to California consumers. Those retailers previously contacted by the BOE will receive follow-up letters explaining the change in the law.

Elected to the Board of Equalization in 2006 and re-elected in 2010, Michelle Steel serves as *Southern California's elected taxpayer advocate*. In December 2007, Steel discovered the Board of Equalization had delayed the return of millions of dollars in security deposits owed to California businesses. Procedures were changed due to Steel's decisive leadership. Following her investigation, the tax agency refunded tax security deposits to over 5,500 small businesses. To date, over \$100 million in security deposits have been returned to taxpayers.

The five-member California State Board of Equalization (BOE) is a publicly elected tax board. The BOE collects more than \$50 billion annually in taxes and fees supporting state and local government services. It hears business tax appeals, acts as the appellate body for franchise and personal income tax appeals, and serves a significant role in the assessment and administration of property taxes. For more information on other taxes and fees in California, visit www.taxes.ca.gov.

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